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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,263	08/05/2003	Ronald K. Burdett	1007001US4APC	7058

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EXAMINER

FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,263

Applicant(s)

BURDETT ET AL.

Examiner

Jimmy G Foster

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-18 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 21 November 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3728

1) The prior art references cited in the parent applications have been considered.

2) Claims 5-18 are allowable.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4) Claims 1-4 are rejected under 35 U.S.C. § 102(e) as being anticipated by Marsilio (5,635,737). In the reference of Marsilio there is provided a security container for a video cassette (an item of recorded media). The container defines a box 4,6, including a base at 4 and a lid at 6. The lid may be considered to be hingedly attached to a rear wall/hinge panel (i.e. spine) 21 of the base by a living hinge 23. Or if the hinge panel is considered to be a part of the lid, the lid is attached to the rear wall 11 of the base by a living hinge 22. In addition to the rear wall 11 or 21, the base includes side walls at 9 and a front wall at 10.

Art Unit: 3728

The box defines a cavity 33 in the front walls of the base 4 and lid 6. The front wall of the base includes a recess 30, and the front wall of the lid includes a recess 32. The recesses 30,32 define the cavity 33. The front surface of each of the front walls of the base and lid may be said to define the rear of the cavity 33. The upper wall of the lid and the bottom wall of the base are also considered to define the cavity 33.

Attached to the base 4 is a flexible flap 36, and attached to the lid is a flexible flap 38. The flaps are adapted to pivot on respective living hinges (40,42) with respect to the base and lid. The flap 36 includes a pair of housings 44, and the flap 38 includes a pair of locking tabs 50. The locking tabs are lockably received within the housings 44 when the flaps 36,38 are pivoted over portions of the front walls of the base and lid. Each of the flaps 36,38 includes ribs 56.

The examiner notes that Applicant's claims do not rule out (expressly or impliedly) a lock which is initially integrally attached to the box. Accordingly, the flaps 36,38, their ribs 56, and their locking elements 44,50 are considered to define a lock which reads on Applicant's claimed lock.

It is asserted that a portion of the lock is substantially received in the cavity 33 of the box when the lock is in the locked position on the box. Figure 4 shows a several elements of the lock extending within the recesses from the flaps, including the housing 44 and the ribs 56 which are on the interior sides of the flaps.

The cavity 33 is therefore considered to define a lock reception cavity.

Art Unit: 3728

It is noted that claim 4 does not define the recited ribs as being vertical. Regarding Applicant's limitation which calls for ribs, the forwardly projecting portions of the upper wall of the lid and the bottom wall of the base are considered to define ribs.

5) Claims 1 and 2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Nakasuji et al (5,823,341). The box container of Nakasuji et al includes a base at receiving body 2 and a lid at 3. In addition, there is a spine (see Fig. 1) which may be considered to be the rear wall of the base part. The lid is hingedly connected to the rear wall spine of the base at a living hinge, as shown in Figure 1.

The holes 5 in the base of the container and the holes 5 in the lid function to receive the locking studs of the lock 6. The term "cavity" is broad enough to define a hole or a space of a hollow element. Accordingly, the holes 4 on the indented front part of the base may be considered to define lock reception cavities which receive substantial portions of the lock 6.

The front wall of the base defines the rear of the lock reception cavities 4.

6) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3728

7) Claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fotheringham et al (4,996,020). The container of Fotheringham et al is intended to hold video cassettes. The container includes a box defined by a base/box 10 and a lid 11. The lid is hingedly attached to the base at an edge 12.

The front wall of the base of the container may be considered to include the anchoring track strip 14. Accordingly, the front wall of the base may be considered to include a cavity at locking pin detent hole 18. The cavity rear also appears to be defined by a front surface of the front wall of the base, at least over a part of the cavity, since the perimeter size of the cavity is larger than the necked portion of the strip 14. In addition, the cavity may be the cavity/hole 4 (of a different embodiment) which is shown as including closed ends, one of which may define a rear of the cavity and the front of the implied box base.

The cavity is considered to define a lock reception cavity since it functions to receive a substantial portion (the locking pin 18 or 3) of the lock (16).

Although the reference does not define the hinge at 12 as being a living hinge, it is notoriously well known to make the hinge on a video cassette container as a living hinge since this will permit the base and lid of the container to be molded at the same time in a single mold. Accordingly, it would have been obvious to have made the hinge at 12 of Fotheringham et al as a living hinge.

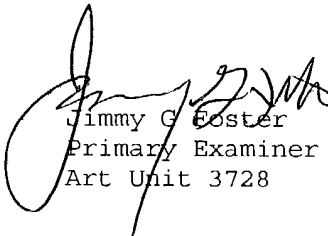
8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number

Art Unit: 3728

is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy G. Foster
Primary Examiner
Art Unit 3728

JGF
15 April 2004